

AMENDATORY SECTION (Amending WSR 04-16-090, filed 8/3/04, effective 9/3/04)

WAC 308-66-110 Definitions. For the purpose of administering chapter 46.70 RCW, the following terms shall be construed in the following manner:

(1) "Offering" the sale of a vehicle shall include the distribution by any means of a list, with or without prices, of vehicles for sale.

(2) "Soliciting" the sale of a vehicle shall include an offer to effect the purchase or sale of a vehicle on behalf of another person.

(3) "Normal business hours" or "reasonable times" shall include, but not be limited to, the hours from 10:00 a.m. through 4:00 p.m. for five days each week. When a dealer closes the place of business during normal business hours, a sign must be posted on the main door of the business stating the time that the dealer will next be open for business and how the dealer may be contacted provided that this is not permission to routinely avoid maintaining normal business hours.

(4) An "employee" of a dealer is a person on the payroll who appears on the record of the dealer as an employee for whom social security, withholding tax, and all deductions required by law have been made.

(5) A "broker" shall mean any person acting independently, who for a commission, fee or any other form of compensation arranges or engages in the wholesale or retail purchase, sale or lease with option to purchase, of a vehicle.

(6) A "vehicle dealer identification card" is a card, prescribed by the department and issued by a licensed dealer, that is used to identify the principal of a dealership, including a corporate officer, a partner of a partnership, or sole proprietor, or a member of a limited liability company, or an "employee," for purposes of driving a vehicle bearing dealer license plates.

(7) A "demonstration permit" is a permit issued by a dealer to a prospective customer entitling the prospective customer to operate a particular vehicle for demonstration purposes.

(8) Current service agreement - The agreement between a vehicle manufacturer or vehicle distributor and a seller, stipulating that the seller will provide warranty adjustments for the owners of that manufacturer's or distributor's new vehicles which qualify for adjustments under the manufacturer's or distributor's warranty.

(9) New vehicle warranty - The warranty extended by a manufacturer or distributor to the first retail purchaser.

(10) "Closing" shall mean the process of completion of sale transaction.

(11) "Completion of sale" in the case of a consigned vehicle shall mean that the purchaser has possession of the vehicle, all liens against the vehicle are paid, the seller has the proceeds of sale, and title to the vehicle has been transferred to the retail purchaser.

(12) "Listing" shall mean a contract between a seller of a used mobile/manufactured home and a listing dealer for the dealer to locate a willing purchaser for that home.

(13) "Consignment" shall mean an arrangement whereby a vehicle dealer accepts delivery or entrustment of a vehicle and agrees to sell the vehicle on behalf of another.

(14) "Remanufactured" shall mean to remake or reprocess into a finished product by a large scale industrial process.

(15) "Guaranteed title" as it relates to a consigned vehicle shall mean a guarantee by the consignor to convey title to the consignee upon sale of the vehicle. The consignment agreement between the consignor and consignee shall comply with the provisions of WAC 308-66-155.

(16) "Used vehicle" in keeping with RCW 46.04.660, and for purposes of the requirement for a service agreement in RCW 46.70.101 (1)(a)(vii), a vehicle will be considered used if it meets the following requirements:

(a) It has been titled or registered to a bona fide retail purchaser/lessee for a period of 90 days or more; and

(b) The vehicle has been operated (driven) to the extent that its odometer registers 3,000 miles or more.

However, the requirements of (a) and (b) of this subsection will not apply if a bona fide retail purchaser/lessee sells, trades, or otherwise disposes of the vehicle prior to its having met those requirements. To document such an exemption, the subsequent wholesaling and retailing dealer must keep, as a dealer business record, a notarized affidavit from either the bona fide retail purchaser/lessee, or in the case of an imported vehicle, a notarized affidavit from the importer of the vehicle. That affidavit will be prescribed by the department and must confirm that the retail purchaser/lessee was a bona fide retail purchaser/lessee.

(17) A "bona fide retail purchaser/lessee" is one who purchases or leases a vehicle for the purpose of using it, rather than for the purposes of resale or lease.

(18) The "principal" of a business as used herein means a true party of interest, including:

(a) The proprietor of a sole proprietorship;

(b) A partner of a partnership or a limited liability partnership;

(c) An officer of a corporation; (~~or~~)

(d) A member or manager of a limited liability company;

(e) A spouse, if he or she is a true party of interest;

(f) In addition, any owner of ten percent or more of the assets who is not already listed.

WAC 308-66-120 Dealer's license application. What information is needed to apply for a vehicle dealer license?

(1) Each application shall contain in addition to the information required by RCW 46.70.041:

(a) The names and residential addresses of all owners of ten percent or more of the assets of the business;

(b) The name and address of the principal place of business;

(c) The names and addresses of each and every subagency, if any;

(d) A current balance sheet of assets, liabilities and owner's equity which shall have been prepared within sixty days of its submission, including proof of the assets;

(e) A statement of whether or not the applicant ~~((or))~~ including any sole proprietor, partner, member, officer, or director of the firm, was the holder of a license issued pursuant to chapter 46.70 RCW which was revoked for cause and never reissued by the department, or suspended for cause and the terms of the suspension have not been fulfilled or assessed a monetary penalty that has not been paid;

(f) A list of all dealerships previously operated by each person named on the application and with which each person presently or was formerly connected or employed.

(2) An applicant must appear for a personal interview if requested by the department.

(3) The department may require a credit report for each person named on each application for a dealer's license.

(4) An applicant must provide as evidence of leasehold or ownership interest of business location either:

(a) A copy of the rental or lease agreement between the applicant and landowner showing the business location by commonly known address, or

(b) A copy of the county assessor's record showing ownership of the business location, the applicant's name and the commonly known address.

(5) An applicant must provide a bank reference for verifying financial condition consisting of:

(a) The name of the applicant's bank, a person to contact at that bank concerning the applicant's financial condition, or

(b) A letter of credit current within the last sixty days, or

(c) A flooring agreement, if with a financial institution, or

(d) A line of credit with a financial institution.

(6) The department may require an applicant to provide evidence that the business location conforms to all zoning and land use ordinances.

(7) A corporate applicant must provide the corporation number and corporation name issued by the secretary of state's office authorizing the company to do business within this state.

(8) The business name and address on the license application and all required supporting documents must be the same.

(9) The applicant must provide a certification of completion in the dealer education program:

(a) At least one principal of each company applying for an original vehicle dealer license must receive certification in the dealer education program required by RCW 46.70.041 (1)(l).

(b) The department encourages as many principals of each company as possible to obtain such certification.

(c) For annual dealer license renewals, either a company principal or a managing employee may complete the continuing education program. The continuing education certificate will indicate that the dealership has fulfilled the requirement.

(d) Certifications for either original or renewal applications will be valid for twelve months.

(10) Any service agreement required by RCW 46.70.041 must be on file with the department. An acquisition or loss of a service agreement must be reported to the department in writing within ten days.

NEW SECTION

WAC 308-66-177 Trust account. The deposit trust account required by RCW 46.70.180(9) must be established and maintained within Washington state.

AMENDATORY SECTION (Amending WSR 04-16-090, filed 8/3/04, effective 9/3/04)

WAC 308-66-210 Statement of change in business structure, ownership interest or control. When do I report such a change?

(1) With the exception of a corporation any person licensed as a dealer under chapter 46.70 RCW must, within ten days following any change in its business structure, file a new application and pay original licensing fees under the new entity.

(2) In addition, any new principals including, but not limited to, new corporate officers, directors, managing partners, members or trustees, must, within ten days of assuming such function, file an application including fingerprint cards and legal and financial history.

((+2+)) (3) Any person licensed as a vehicle manufacturer pursuant to chapter 46.70 RCW must inform the department in writing within ten days of the change to:

(a) The business structure of the licensee company and must file a new application and pay original licensing fees under the new entity;

(b) The mailing address of the licensee;

(c) The name and address of employees or agents designated pursuant to RCW 46.70.041 and 46.70.101 to provide service or repairs to vehicles located within the state of Washington. However, if the licensee requires warranty service to be performed by all of its dealers pursuant to current service agreements on file with the department, it need not advise the department of changes in such employees or agents.

((+3+)) (4) Any and all changes affecting the applicability of a surety bond shall be reflected by appropriate endorsement to such bond.